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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,288	07/03/2003	Fabrice Diehl	PET-2092	5777

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EXAMINER

BROWN, JENNINE M

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,288

Applicant(s)

DIEHL ET AL.

Examiner

Jennine M. Brown

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

Claim Objections

Claim 1 is objected to because of the following informalities: there is no period at the end of the sentence. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The catalyst comprises at least one element of group VIB and group VIII but is unclear whether the substrate and the additive organic compound (Z-A-X-B-Y) are to be optional as well as the phosphorus and silicon deposition.

Claim 1 is indefinite due to the "or else" used at the end of lines 12 and 14.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 6-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kasztelan, et al. (US 6037300).

Kasztelan, et al. disclose a hydrotreating catalyst (col. 1, l. 29-30) comprising at least one element of group VIB (col. 1, l. 66 – col. 2, l. 2) and at least one element of group VIII (col. 2, l. 3-5) onto a support (col. 4, l. 54-67) and silicon (col. 2, l. 53-61) and phosphorus (col. 3, l. 66 – col. 4, l. 6) deposited (impregnation – col. 3, l. 57-61) on the substrate and an organic nitrogen compound (col. 4, l. 3-6; col. 4, l. 50) also being used in the catalyst formation and calcination (col. 3, l. 8-11, 51-65). Molar ratios of ingredients are disclosed (col. 2, l. 22-48). Sulfurization treatment of catalyst and feedstocks are also disclosed (col. 5, l. 49-61; col. 6, l. 8-14). Method steps and order of incorporation onto the support are also disclosed (col. 8, l. 30 – col. 11, l. 59).

Claims 1, 6-10, 12-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Harle, et al. (US 6436280 B1).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Harle, et al. disclose the use of a silicon, boron or phosphorus dopant on the alumina powder support where at least one of group VIB and group VIII metals are added to the support which is then aged, dried and calcined (col. 3, l. 17-25; col. 4, l. 11-35). Preferred weight percentages of elements are disclosed (col. 8, l. 6-35). The catalyst is disclosed as being used for hydrogenation, hydrodenitrogenation, hydrodeoxygenation, hydrodearomatisation, etc. (col. 10, l. 47-55).

Claims 1-4, 6-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Plantenga, et al. (US 6566296 B2).

Plantenga, et al. disclose a hydroprocessing catalyst with at least one group VIII component (col. 3, l. 28-33), at least two group VIB components (col. 3, l. 19-27), carrier (col. 2, l. 67; col. 6, l. 7-21), an additive of an alcohol (col. 3, l. 65-col. 4, l. 38) or additive of organic nitrogen compound (col. 4, l. 39-col. 5, l. 8) or additive of an oxygen containing hydrocarbon (col. 5, l. 14-45) and a phosphorus containing (col. 6, l. 22-26) and silicon containing (col. 6, l. 22-26) compound. Sulfidation is disclosed (col. 6, l. 46). Order of addition of components is not deemed critical (col. 11, l. 15-20). Methods of preparation, drying and calcination are disclosed (col. 11, l. 46 – col. 14, l. 67).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennine M. Brown whose telephone number is (571)

272-1364. The examiner can normally be reached on M-F 8:00 AM - 6:00 PM; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell can be reached on (571) 272-1700. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jmb



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